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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEB 16 1993

In the Matter of)
)
Implementation of Section 22)
of the Cable Television)
Consumer Protection and)
Competition Act of 1992)
)
Equal Employment Opportunities)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MM Docket No. 92-261 ✓

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

1. The National Association of Broadcasters ("NAB"),^{1/} by counsel, hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking ("Notice") in the above-referenced proceeding.^{2/}

2. In the Notice, the Commission proposes to amend its rules to implement the equal employment opportunity ("EEO") provisions set forth in Sec. 22 of the Cable Television Consumer Protection and Competition Act of 1992 ("the Cable Act"), Pub. L. No. 102-385, ____ Stat. ____ (1992). NAB's comments address only the proposals in the Notice which would be applicable to broadcast television stations.

3. NAB believes the Commission's Notice generally proposes an appropriate response to the mandates of Sec.

^{1/} NAB is a nonprofit, incorporated association which serves and represents America's radio and television broadcast stations and networks.

^{2/} FCC 92-539, 58 Fed. Reg. 3929 (Jan. 12, 1992).

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22(f) of the Cable Act, as explicated by the Cable Act Conference Report ("the Conference Report").^{3/} The Commission has taken the proper approach by following the specific instructions of the Conference Report in its proposed implementation of Sec. 22(f).

4. In ¶¶ 5-7 of the Notice, the Commission reviews the Cable Act's requirement that "a midterm review of television broadcast station licensees' employment practices" be undertaken and that the Commission "inform such licensees of necessary improvements in recruitment practices identified as a consequence of such review." The Conference Report instructs that this review is to be conducted by the FCC staff, comparing the work force data submitted to the FCC in the first two Forms 395 filed following the grant of a station's license renewal with the station's area labor force in the manner customarily used by the Commission, and applying the EEO processing guidelines in effect on September 1, 1992. If the staff's review suggests that improvement in recruitment practices appears necessary, a staff letter -- which is not to be treated as a sanction -- shall be sent to the station.

5. NAB believes the Commission is correct in concluding in ¶ 7 of the Notice that its midterm review should follow the clear direction of the Conference Report. It is apparent from reviewing the Conference Report that a

^{3/} H.R. Rep. No. 862, 102d Cong., 2d Sess. (1992).

procedure has been specified which requires the Commission staff to make a numerical comparison which will provide the licensee with a midterm check of its employment profile as compared to its area labor force, so that the licensee can correct its course if necessary. No other FCC activity is suggested. NAB believes there is no reason why the Commission should deviate from the specific instructions of the Conference Report in this matter.

6. The Conference Report states that the first two Forms 395-B submitted after grant of license renewal are to be used for review. The Commission proposes to use the first two annual reports filed after the expiration of the station's license period as stated in Sec. 73.1020 of its Rules. Congress clearly intended that a midterm review be conducted during the normal five year license term. NAB supports the Commission's proposal insofar as it is harmonious with the Congressional intent. We urge the Commission to review its proposal to make certain that this will be its result.

7. In ¶ 9 of the Notice, the Commission addresses the matter of how it should inform licensees "of necessary improvements in recruiting practices identified as a consequence" of the midterm review. The Commission proposes a letter be sent to the licensee suggesting the need for more intense self-assessment. NAB believes that this would be an appropriate action. NAB suggests that accompanying

the letter itself might be the statistical station workforce/area labor force comparison conducted by the staff. In the letter, the Commission might assist licensees by referencing the provisions of the Form 396 Broadcast Equal Employment Opportunity Program Report and Sec. 73.2080, the EEO rules, as items for possible review.

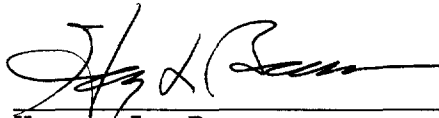
8. In ¶ 9 of the Notice, the Commission seeks comment as to whether letters should only be sent those stations not meeting the processing guidelines. In ¶ 10, the Commission tentatively concludes that failure to receive a "deficiency letter" would not be treated as evidence of compliance at renewal. NAB believes that while no letter of "non-deficiency" is required, it would not be inappropriate for the Commission to send such a letter, which could note that its receipt would not be evidence of compliance with the rules at renewal.

9. Finally, NAB concurs with the Commission's view, expressed in ¶ 10 of the Notice, that a "finding of deficiency" as to the statistical comparison conducted by the staff should constitute "nothing more than an early

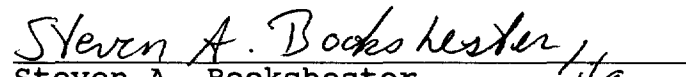
warning that a licensee's overall EEO efforts may need improvement."

Respectfully submitted,

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